

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington, Suite 301
Indianapolis, IN 46204
(317) 233-0696
<http://www.in.gov/legislative>

FISCAL IMPACT STATEMENT

LS 6021

BILL NUMBER: SB 27

NOTE PREPARED: Nov 12, 2007

BILL AMENDED:

SUBJECT: Cooling off Period for Domestic Battery.

FIRST AUTHOR: Sen. Arnold

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: Local

Summary of Legislation: This bill requires a law enforcement agency having custody of a person arrested for a crime involving domestic or family violence to keep the person in custody for at least eight hours from the time of the arrest, and prohibits a person arrested for a crime involving domestic or family violence from being released on bail during the eight-hour period.

Effective Date: July 1, 2008.

Explanation of State Expenditures:

Explanation of State Revenues:

Explanation of Local Expenditures: Any added costs will depend on the existing local policy of holding persons arrested for domestic and family violence, the county's jail population and jail capacity, and the current length of time an arrested person takes to be released from jail pending a court date. (Note: By law, an arrest is defined as: "taking of a person into custody, that he may be held to answer for a crime". IC 35-33-1-5)

Based on a survey conducted by the Indiana Coalition Against Domestic Violence, LSA estimates at least half of all counties in Indiana may not have any form of a hold policy and could see more persons remaining in jail for longer periods of time before they are released pending trial.

The length of time that a person needs to be released from jail will depend on the assurance that the court needs to determine whether the arrested person will appear in court and not be a threat to public safety. While

persons who are arrested may be released on their own personal recognizance, it is not known whether most courts require a person to deposit money with the court to ensure the person's appearance in court. The length of time that it takes a person to be released from jail pending trial is not known.

In a survey conducted by the Indiana Coalition Against Domestic Violence, representatives of 39 counties reported their county's holding policy for defendants in domestic violence cases. These 39 counties represent 60% of the entire state population. Of those responding, 28 reported that they had some type of hold policy for persons arrested for domestic violence.

Survey of 92 Counties Concerning Holding Policies of Persons Arrested for Domestic or Family Violence				
		Number of Counties	Population of Subgroups	Percent of State Population
Counties Responding	Counties with Holding Policy	28	1,766,549	29%
	Counties with No Holding Policy	11	1,870,479	31%
Counties Not Responding		53	2,430,410	40%
Total Counties		92	6,067,438	100%

Of the 28 counties reporting a hold policy, 17 counties reported having lengths of holds ranging from the time a bond is posted to a maximum of 48 hours.

Length of Hold	Number of Counties	Population of Counties in Sample	Percentage of Responding Population
Until bond is posted	2	159,403	4%
12 hours	6	437,670	12%
24 hours	3	150,679	4%
Up to 48 hours	6	409,570	11%
8 hours	2	30,796	1%
Until court appearance	9	578,431	16%
	28	1,766,549	49%

Background: IC 35-41-1-6.5 defines crimes involving domestic or family violence as those occurring when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.
- (2) A battery offense under IC 35-42-2.
- (3) Kidnaping or confinement under IC 35-42-3.
- (4) Human and sexual trafficking crimes under IC 35-42-3.5.
- (5) A sex offense under IC 35-42-4.
- (6) Robbery under IC 35-42-5.
- (7) Arson or mischief under IC 35-43-1.
- (8) Burglary or trespass under IC 35-43-2.
- (9) Disorderly conduct under IC 35-45-1.

- (10) Intimidation or harassment under IC 35-45-2.
- (11) Voyeurism under IC 35-45-4.
- (12) Stalking under IC 35-45-10.
- (13) An offense against family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
- (14) A crime involving animal cruelty and a family or household member under IC 35-46-3-12(b)(3) or IC 35-46-3-12.5.

Explanation of Local Revenues:

State Agencies Affected:

Local Agencies Affected: Sheriffs, Courts, Prosecuting Attorneys.

Information Sources: Indiana Coalition Against Domestic Violence.

Fiscal Analyst: Mark Goodpaster, 317-232-9852.